

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DERRICK HOLLAND,

Plaintiff,

v.

CITY OF RIDGECREST., *et al.*

Defendants.

Case No. 1:22-cv-01578-JLT-CDB

ORDER EXTENDING STAY UNTIL
AUGUST 28, 2023

(Docs. 15, 17)

On December 8, 2022, Plaintiff filed a complaint against Defendants alleging that Plaintiff was arrested unlawfully based on a fraudulent search of his home on August 17, 2020. (Doc. 1). Plaintiff filed an amended complaint on February 27, 2023. (Doc. 9). On March 20, 2023, Defendants filed a motion to dismiss arguing Plaintiff's claims are barred by *Heck v. Humphrey*. (Doc. 11).

On March 24, 2023, the Court granted the parties' stipulated request for a 120-day stay. (Doc. 15). In the parties' stipulation, Plaintiff represented that he intended to file a motion to vacate the underlying state criminal conviction "within 30 days of the stipulation" and that a 120-day stay of the instant action was appropriate in part because proceedings on the anticipated motion to vacate "may proceed for 90-120 days." (Doc. 13).

Pending before the Court is the parties' status report in which Plaintiff requests a 60-day extension of the stay, whereas Defendants oppose any extension. (Doc. 17). Plaintiff attests he has

1 not yet filed the anticipated motion to vacate conviction in part due to continuing discussions with
2 counsel for Defendant Weisburch regarding execution of a supporting declaration. Plaintiff has not
3 contacted Defendant Wise.

4 The Court has considered the factors articulated in *Landis v. N. Am. Co.*, 299 U.S. 248, 254-
5 55 (1936) and *CMAX v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962), and concludes that a brief
6 extension of the current stay (30 days) is warranted based on the posture of the case and the parties'
7 representations in the joint report. (Doc. 17).

8 Accordingly, based on the parties' representations, for good cause appearing and this
9 Court's authority to stay civil proceedings, IT IS HEREBY ORDERED:

- 10 1. This action shall be stayed until August 28, 2023, on which date the stay will expire;
- 11 2. Absent further stipulation, Plaintiff's remaining time to oppose Defendants' pending
12 motion to dismiss (Doc. 11) shall run from August 28, 2023; and
- 13 3. No further request for extending the stay will be granted unless Plaintiff files the
14 anticipated motion to vacate criminal judgment pursuant in *People of the State of*
15 *California v. Derrick Andre Holland*, Kern County Superior Court Criminal Case No.
16 RF008484A, and files any such request for extension at least one week prior to the
17 expiration of the stay (*e.g.*, no later than August 21, 2023).

18 IT IS SO ORDERED.

19 Dated: July 17, 2023

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UNITED STATES MAGISTRATE JUDGE